

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

ROSY GIRON DE REYES, <i>et al.</i>,)	
Plaintiffs,)	
)	
v.)	Case No. 1:16-cv-563
)	
WAPLES MOBILE HOME PARK)	
LIMITED PARTNERSHIP, <i>et al.</i>,)	
Defendants.)	

ORDER

The matter is before the Court on plaintiffs' Expedited Motion for an Extension of Time to Respond to Defendants' Motion for Summary Judgment (Doc. 106) until December 23, 2016.

On November 23, 2016, defendants filed a motion for summary judgment on all of plaintiff's claims. Pursuant to Local Civil Rule 7, plaintiffs' brief in opposition is due on December 5, 2016. Local Civ. R. 7(F). In the instant motion for an extension of time, plaintiffs contend that defendants' summary motion is premature because (i) plaintiffs have not completed all depositions, (ii) document discovery has not been completed, (iii) certain expert reports have not yet been submitted, and (iv) expert depositions, pursuant to defendants' request, will not be complete until after fact discovery closes. Plaintiffs also submitted a declaration pursuant to Rule 56(d), Fed. R. Civ. P., setting forth reasons plaintiffs would be unable by December 5 to present facts essential their opposition to the summary judgment motion. Specifically, plaintiffs note that the depositions of two key witnesses are scheduled for December 5 and 6, and that each witness could possess critical information concerning the allegedly unlawful housing policy at issue in this case.

To begin with, it is worth noting that despite plaintiffs' repeated assertions that defendants prematurely moved for summary judgment, defendants are not required to wait until

after the close of discovery to file a motion for summary judgment. *See* Local Civ. R. 56(A) (permitting summary judgment motions to be filed “within a reasonable time before the date of trial”). Importantly, however, Rule 56(d), Fed. R. Civ. P., permits a court to “issue any . . . appropriate order”—including deferring consideration of a motion for summary judgment or granting the nonmovant an extension of time to respond—provided the nonmovant “shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition” to the motion for summary judgment. Fed. R. Civ. P. 56(d). Here, in light of plaintiffs’ Rule 56(d) declaration, it is appropriate to grant an extension of time.

Accordingly, and for good cause,

It is hereby **ORDERED** that plaintiffs’ motion for an extension of time is **GRANTED**.


It is further **ORDERED** that plaintiffs may have until 5:00 p.m. Friday, December 23, 2016 to file a brief in opposition to defendants’ motion for summary judgment.

It is further **ORDERED** that defendants may have until 5:00 p.m., Tuesday, January 3, 2017 to file a reply. The parties’ briefs are to comply with the format prescribed by Local Civil Rule 56 and the Rule 16(b) Scheduling Order.¹

It is further **ORDERED** that the hearing on defendants’ motion for summary judgment currently scheduled for Friday, December 16, 2016 is **RESCHEDULED** for 10:00 a.m. Friday, January 27, 2017.

The Clerk is directed to send a copy of this Order to all counsel of record.

Alexandria, Virginia
November 29, 2016



T. S. Ellis, III
United States District Judge

¹ *Reyes v. Waples Mobile Home Park L.P.*, No. 1:16-cv-563 (E.D. Va. Aug. 18, 2016) (Doc. 47).